

# HOUSE . . . . . No. 671

By Ms. Gobi of Spencer, petition of Anne M. Gobi and others relative to fines and penalties for motorists violating rights-of-way laws concerning motorcyclists, bicyclists or pedestrians who suffer serious bodily injury or death. The Judiciary.

## The Commonwealth of Massachusetts

### PETITION OF:

Anne M. Gobi	Mark J. Carron
Robert L. Hedlund	Susan C. Fargo
Robert F. Fennell	Paul J. Donato
Jeffrey Davis Perry	Donald F. Humason, Jr.
William G. Greene, Jr.	Anne M. Paulsen
Kathi-Anne Reinstein	Byron Rushing
Stephen M. Brewer	Louis L. Kafka
Elizabeth A. Poirier	Dennis E. Guyer
Todd M. Smola	Michael R. Knapik

In the Year Two Thousand and Five.

AN ACT RELATIVE TO INCREASING THE CIVIL FINES AND FINANCIAL RESPONSIBILITIES AND CRIMINAL PENALTIES OF MOTORISTS WHO VIOLATE THE RIGHT OF WAY OF OTHER MOTORISTS, MOTORCYCLISTS, BICYCLISTS AND/OR PEDESTRIANS, RESULTING IN SERIOUS BODILY INJURY AND/OR DEATH.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 8 of chapter 89, as appearing in the 1998  
2 Official Edition, is hereby amended by striking out in the last sen-  
3 tence the words “thirty-five” and replacing it with “three hundred.”

1 SECTION 2. Section 8 of Chapter 89 of the General Laws, as so  
2 appearing, is hereby amended by adding at the end of said section  
3 the following new paragraph:—

4 Any person who violates the provisions of the paragraph and as a  
5 result causes serious bodily injury or death to another operating

6 a motor vehicle, a motorcycle or bicycle, or as a pedestrian, shall be  
7 financially responsible to that injured person or persons, or their  
8 Estate, for out of pocket medical or funeral expenses, actual lost  
9 wages, above what might otherwise be covered by liability insur-  
10 ance, and to other insurers who may be obligated to pay such med-  
11 ical expenses.

1 SECTION 3. Adding as Section 24Q of Chapter 90, the  
2 following:—

3 Chapter 90, Section 24Q.

4 Violating the right of way of another motorists, motorcyclists,  
5 bicyclists or pedestrians causing serious bodily injuries or death,  
6 Imprisonment and Fine, Minimum Sentence; Definition of “Serious  
7 Bodily Injury”; Revocation of License, (1) Whoever, upon any way  
8 or in any place to which the public has a right of access, or upon any  
9 way or in any place to which members of the public have access as  
10 invitees or licensees, operates a motor vehicle in violation of section  
11 eight of chapter eighty-nine, or while under the influence of intoxi-  
12 cating liquor, or marihuana, narcotic drugs, depressants, or stimulant  
13 substances, all as defined in section one of chapter ninety-four C, or  
14 the vapors of glue, and so operates a motor vehicle recklessly or  
15 negligently so that the lives or safety of the public might be endan-  
16 gered, and by any such operation so described causes serious bodily  
17 injury to another operating a motor vehicle, a motorcycle or bicycle,  
18 or as a pedestrian, shall be punished by imprisonment in the state  
19 prison for not less than two and one-half years nor more than ten  
20 years and by a fine of not more than five thousand dollars, or by  
21 imprisonment in a jail or house of correction for not less than eigh-  
22 teen months nor more than two and one-half years and by a fine of  
23 not more than three thousand dollars. The sentence imposed upon  
24 such person shall not be reduced to less than eighteen months, nor  
25 suspended, nor shall any person convicted under this subsection be  
26 eligible for probation, parole, or furlough or receive any deduction  
27 from his sentence until such person has served at least eighteen  
28 months of such sentence; provided, however, that the commissioner  
29 of correction may, on the recommendation of the warden, superin-  
30 tendent, or other person in charge of a correctional institution, or of  
31 the administrator of a county correctional institution, grant to an  
32 offender committed under this subsection a temporary release in the

33 custody of an officer of such institution for the following purposes  
34 only: to attend the funeral of a relative; to visit a critically ill  
35 relative; to obtain emergency medical or psychiatric services  
36 unavailable at said institution; or to engage in employment pursuant  
37 to a work release program. Prosecutions commenced under this  
38 subdivision shall neither be continued without a finding nor  
39 placed on file.

40 The provisions of section eighty-seven of chapter two hundred  
41 and seventy-six shall not apply to any person charged with a viola-  
42 tion of this subdivision.

43 (2) For the purposes of this section “serious bodily injury” shall  
44 mean bodily injury which creates a substantial risk of death or which  
45 involves either total disability or the loss or substantial impairment  
46 of some bodily function for a substantial period of time greater than  
47 thirty days.

48 (3) The registrar shall revoke the license or right to operate of a  
49 person convicted of a violation of subdivision (1) for a period of five  
50 years after the date of conviction. No appeal, motion for new trial or  
51 exception shall operate to stay the revocation of the license or the  
52 right to operate; provided, however, such license shall be restored or  
53 such right to operate shall be reinstated if the prosecution of such  
54 person ultimately terminates in favor of the defendant.

55 (4) Whoever, upon any way or in any place to which the public  
56 has a right of access, or upon any way or in any place to which  
57 members of the public have access as invitees or licensees, operates  
58 a motor vehicle while in violation of section eight of chapter eight-  
59 nine, or under the influence of intoxicating liquor, or of marihuana,  
60 narcotic drugs, depressants, or stimulant substances, all as defined in  
61 section one of chapter ninety-four C, or the vapors of glue, and so  
62 operates a motor vehicle recklessly or negligently so that the lives or  
63 safety of the public might be endangered, and by any such operation  
64 so described causes the death of another person while operating a of  
65 another motor vehicle, a motorcycle, bicycle or as a pedestrian,  
66 shall be guilty of homicide by a motor vehicle in while in violation  
67 of section eight of chapter eight-nine, or under the influence of an  
68 intoxicating substance, and shall be punished by imprisonment in  
69 the state prison for not less than two and one-half years or more than  
70 fifteen years and a fine of not more than five thousand dollars, or by  
71 imprisonment in a jail or house of correction for not less than two

72 years and one-half years and a fine of not more than five thousand  
73 dollars. The sentence imposed upon such person shall not be reduced  
74 to less than two years, nor suspended, nor shall any person convicted  
75 under this subsection be eligible for probation, parole, or furlough or  
76 receive any deduction from his sentence until such person has served  
77 at least two years of such sentence; provided, however, that the com-  
78 missioner of correction may, on the recommendation of the warden,  
79 superintendent, or other person in charge of a correctional institu-  
80 tion, or the administrator of a county correctional institution, grant to  
81 an offender committed under this subsection a temporary release in  
82 the custody of an officer of such institution for the following pur-  
83 poses only: to attend the funeral of a relative; to visit a critically ill  
84 relative; to obtain emergency medical or psychiatric services  
85 unavailable at said institution, or to engage in employment pursuant  
86 to a work release program. Prosecutions commenced under this  
87 section shall neither be continued without a finding nor placed  
88 on file.

89 The provisions of section eighty-seven of chapter two hundred  
90 and seventy-six, shall not apply to any person charged with a viola-  
91 tion of this subsection.

92 (5) The registrar shall revoke the license or right to operate of a  
93 person convicted of a violation of subsection (4) for a period of ten  
94 years after the date of conviction for a first offense. The registrar  
95 shall revoke the license or right to operate of a person convicted for  
96 a subsequent violation of this section for the life of such person, No  
97 appeal, motion for a new trial or exceptions shall operate to stay the  
98 revocation of the license or of the right to operate; provided, how-  
99 ever, such license shall be restored or such right to operate shall be  
100 reinstated if the prosecution of such person ultimately terminates in  
101 favor of the defendant.